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DEPARTMENT OF LAW LETTER OPINION NO. 71-21-L (R-76)

REQUESTED BY: PAUL R. BOYKIN
Executive Director
Board of Medical Examiners

QUESTION: If a doctor collects a specimen and then sends it out to an independent laboratory, but chooses because of his long time billing practices to make no separate charge to the patient either for his own services of collecting the specimen or for the services of the independent laboratory, is such procedure permissible?

ANSWER: No, qualified.

A.R.S. § 36-461.2 provides that the Clinical Laboratories Act does not apply to a physician whose operation of a laboratory is limited to laboratory analysis performed for his own patients and within the scope of his license. In this situation, it clearly appears that a physician who has his own laboratory and does his own laboratory work can either make a separate charge on his bill or not, according to his own desires.

A.R.S. § 36-472.B provides:

"B. The bill to the patient shall specify the actual charge by the reference laboratory together with the reasonable specimen collection charge by the referring laboratory or physician."

In this situation, it appears that if a doctor sends a specimen to another laboratory for processing he may only bill what the independent laboratory actually charged, and then, if he chooses, may add a separate reasonable bill for having collected the specimen.

The intent of A.R.S. § 36-472.B is in conformity with accepted medical ethics. The Principles of Medical Ethics, American Medical Association, provide that:

"7. In the practice of medicine, a physician should limit the source of his professional income to medical services actually rendered by him, or under his supervision, to his patients. . . ."

The apparent purpose of A.R.S. § 36-472.B is to insure that a laboratory or physician does not mislead a patient as to the true independent laboratory or collection charge.

While a specimen collection fee may be absorbed in a physician's professional fee, as is rent, salaries, etc., if not easily itemized, it is the opinion of this office that the absorption of the laboratory fee in a professional fee would not be medical services rendered by a physician, as contemplated by the above-quoted Principles of Medical Ethics, as well as being specifically prohibited by A.R.S. § 36-472.B. Likewise, if a specimen collection charge is separable as such by a physician as opposed to general services rendered, it would appear incumbent under the statute that the physician itemize it as well.

Respectfully submitted,



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The Attorney General